

**BEFORE THE
STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

DOCKET 04-AFC-1
DATE JAN 29 2006
RECD. JAN 30 2006

Application for Certification
For the San Francisco
Electric Reliability Project

Docket No. 04-AFC-1

Response of the Bay Area Air Quality Management District to Request for Continuance of Hearing on the CARE Appeal of City and County of San Francisco, San Francisco Electrical Reliability Project, FDOC Application 12344 and Request for Clarification on Staff's proposal that the date for publication of the FSA be tentatively scheduled for February 15, 2006

In behalf of Californians for Renewable Energy, Inc. (CARE) we respectfully provide the attached *Response of the Bay Area Air Quality Management District to Request for Continuance of Hearing on the CARE Appeal of City and County of San Francisco, San Francisco Electrical Reliability Project, FDOC Application 12344* approving the continuance of this matter until March 23rd, 2006 at 9:35AM. CARE also requests clarification on Staff's proposal that the date for publication of the FSA be tentatively scheduled for February 15, 2006.

CARE respectfully invites the other Parties to the Application for Certification for the San Francisco Electric Reliability Project under Docket No. 04-AFC-1, to Intervene pursuant to the BAAQMD Hearing Board's Rules §3.6.

§3.6 Application for Intervention. Any person who claims that he or she has an interest relating to the subject of a proceeding, and that the disposition of the proceeding may impair or impede his or her ability to protect that interest, may file a written application for intervention in that proceeding. The application shall be timely, shall set forth the grounds and purpose of such intervention, and shall be served by mail or in person upon the parties to the proceeding. In exercising its discretion as to whether to grant or deny such an application, the Hearing Board shall consider whether intervention would unduly delay or prejudice the adjudication of the rights of the parties. In all cases involving permit regulations, an Application for

Intervention filed by the permit applicant or permit holder shall be granted as a matter of right.

In regards to Staff's proposal that the date for publication of the FSA be tentatively scheduled for February 15, 2006, on January 24, 2006 Bill Pfanner the Commission's Siting Project Manager stated in Staff's status report #9 that the "Final Determination of Compliance (FDOC) from the Bay Area Air Quality Management District. (BAAQMD) was submitted to the Energy Commission on December 15, 2005." Staff concluded its status report by stating "the date for publication of the FSA is tentatively scheduled for February 15, 2006."

On January 23, 2006 CARE had received the attached e-mail from BAAQMD Permit Division Staff Bob Nishimura who stated the "District is going to reissue the Final DOC, therefore you will have another chance to comment on FDOC document." Therefore it would be premature at this time for the CEC Staff to set the date for publication of the FSA before the Final FDOC is issued by BAAQMD.

Title 20 of the California Code of Regulations contains the statutes the CEC operates under relating to power plant siting certification and under Section 1744.5 it requires that the commission's staff wait for the air pollution control district to "conduct, for the commission's certification process, a determination of compliance review of the application in order to determine whether the proposed facility meets the requirements of the applicable new source review rule and all other applicable district regulations."

/ 1744.5. Air Quality Requirements; Determination of Compliance.


(a) The applicant shall submit in its application all of the information required for an authority to construct under the applicable district rules, subject to the provisions of Appendix B(g)(8) of these regulations.

(b) The local air pollution control officer shall conduct, for the commission's certification process, a determination of compliance review of the application in order to determine whether the proposed facility meets the requirements of the applicable new source review rule and all other applicable district regulations. If the proposed facility complies, the determination shall specify the conditions, including BACT and other mitigation measures, that are

necessary for compliance. If the proposed facility does not comply, the determination shall identify the specific regulations which would be violated and the basis for such determination. The determination shall further identify those regulations with which the proposed facility would comply, including required BACT and mitigation measures. The determination shall be submitted to the commission within 240 days (or within 180 days for any application filed pursuant to Sections 25540 through 25540.6 of the Public Resources Code) from the date of the acceptance.

Since the BAAQMD has approved the continuance of the *Hearing on the Appeal of City and County of San Francisco San Francisco Electrical Reliability Project FDOC Application 12344* until March 23rd, 2006, for the commission's staff to issue the FSA on February 15, 2006, prior to our March 23rd, 2006 Hearing before the BAAQMD Hearing Board, besides being premature, this action may prejudice our rights to a fair hearing before the BAAQMD, giving CARE good cause to name the CEC in any subsequent judicial review of the Hearing Board's subsequent action on CARE's Appeal of FDOC Application 12344.

Respectfully submitted,



Lynne Brown Vice-President
CALifornians for Renewable Energy, Inc.
(CARE)
24 Harbor Road
San Francisco, CA 94124



Michael E. Boyd President
CALifornians for Renewable Energy, Inc.
(CARE)
5439 Soquel Drive
Soquel, CA 95073

Verification

I am an officer of the Intervening Corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except matters, which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.



Executed on this 29th day of January, 2006 at San Francisco, California.



Lynne Brown- Vice President,
CALifornians for Renewable Energy, Inc. (CARE)
Resident, Bayview Hunters Point
24 Harbor Road, San Francisco, CA 94124
E-mail: l_brown123@sbcglobal.net

Subject: RE: 04-AFC-1 CARE's Request for Continuance of February 2, 2006 hearing on the San Francisco Electric Reliability Project

Date: Mon, 23 Jan 2006 09:34:59 -0800

From: "Bob Nishimura" <BNishimura@baaqmd.gov>  [Add to Address Book](#)  [Add Mobile Alert](#)

To: "Michael Boyd" <michaelboyd@sbcglobal.net>

Mr. Boyd,

The District is going to reissue the Final DOC, therefore you will have another chance to comment on FDOC document. We have not issued the Authority to Construct because the CEC has not certified the project.

Bob Nishimura
415-749-4679

-----Original Message-----

From: Michael Boyd [mailto:michaelboyd@sbcglobal.net]
Sent: Monday, January 23, 2006 9:27 AM
To: Mary Romaidis; Jack Broadbent; Bob Nishimura; rios.gerardo@epa.gov; PAO@energy.state.ca.us; docket@energy.state.ca.us; Lynne Brown; Neel Advani; BHale@sfgwater.org; kkubick@sfgwater.org; steve4155@astound.net; jcarrier@ch2m.com; Jeanne.sole@sfgov.org; drp.gene@spcglobal.net; djordan@caiso.com; Jeffrey.russell@mirant.com; michael.carroll@lw.com; joeboss@joeboss.com; sarveybob@aol.com; steven@sfpower.org; john gabrielli
Subject: 04-AFC-1 CARE's Request for Continuance of February 2, 2006 hearing on the San Francisco Electric Reliability Project

04-AFC-1 CARE's Request for Continuance of February
2, 2006 hearing on the San Francisco Electric
Reliability Project



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DISTRICT



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Mary Romaidis

HEARING BOARD

Telephone: 415.771.6000

Fax: 415.928.8560

January 23, 2006

Michael E. Boyd
President
Californians for Renewable Energy, Inc. (CARE)
5439 Soquel Drive
Soquel, CA 95073

RE: DOCKET NO. 3511
CITY AND COUNTY OF SAN FRANCISCO SAN FRANCISCO
ELECTRICAL RELIABILITY PROJECT FDOC APPLICATION 12344
APPEAL
Waiver of Time (Health & Safety Code Section 42308)

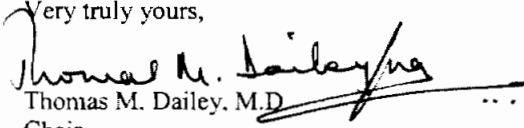
Dear Mr. Boyd:

In response to your Request for Continuance dated January 23, 2006 in connection with the above-mentioned matter, the Hearing Board hereby continues the hearing scheduled in connection with the above matter from February 2, 2006, **to 9:35 a.m., Thursday, March 23, 2006.** 939 Ellis Street, San Francisco, California.

The new hearing date is beyond the requirement to hold a public hearing within 30 days in accordance with Health & Safety Code Section 42308. Therefore, the Hearing Board is requesting each party to submit a Waiver, in writing, from this requirement. The Waiver shall be submitted, in writing, in an original and nine copies.

If you have any questions, please contact Neel Advani at (415) 749-5187.

Very truly yours,


Thomas M. Dailey, M.D.
Chair

na.

cc: Lynne Brown, Californians for Renewable Energy, Inc. (CARE)
Alexander Crockett, Esq., Assistant District Counsel